

PATENT
A2996A USIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): YU, ET AL. EXAMINER : UNASSIGNED
SERIAL NO. : 09/744,788 ART UNIT : UNASSIGNED
FILED : JANUARY 30, 2001
FOR : ISOFORMS OF HUMAN CALCIUM SENSING RECEPTOR

CERTIFICATE OF MAILING UNDER 37 CFR 1.10

I hereby certify that this correspondence is being deposited with the United States Postal Service as EXPRESS MAIL with EXPRESS MAIL LABEL EL916211421US mail in an envelope addressed to the COMMISSIONER FOR PATENTS, WASHINGTON, DC 20231 on 3/14/02

Gerald V. Dahling, Reg. No. 29,632
(Name of Registered Representative)

Gerald V. Dahling 3/14/02
(Signature and Date)

REQUEST FOR RECONSIDERATION OF A DECISION ON A PETITION UNDER 37 CFR
1.47(a)

Attention: PCT Legal Office
ASSISTANT COMMISSIONER FOR PATENTS
Box PCT
WASHINGTON, D.C. 20231

Dear Sir:

Applicants hereby request reconsideration of a decision dated February 12, 2002 on a Petition under 37 CFR 1.47(b) filed December 14, 2001.

STATEMENT OF FACTS

On December 14, 2001, Applicants filed a petition under 37 CFR 1.47(b) (Filing When

an Inventor Cannot Be Reached). The United States Patent and Trademark Office (USPTO) treated Applicants' petition as being filed under 37 CFR 1.47(a).

On February 12, 2002, the USPTO dismissed Applicants' petition. It explained that in order to grant such a petition, the petition must be accompanied by:

- (1) An oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning inventors;
- (2) Factual proof that the missing joint inventor refuses to join in the application or cannot be reached after diligent effort;
- (3) The fee set forth under 37 CFR § 1.17(I); and
- (4) The last known addresses of the nonsigning joint inventors.

The USPTO has admitted that with regard to item (1) above, Applicants have submitted a declaration signed by inventors Kin YU and Richard LABAUDINIERE each on his/her own behalf and on behalf of the nonsigning inventor Larry THROWER; that with regard to item (3) above, Applicants have provided the requisite fee; and that with regard to item (4) above, the petition states the last known address of the nonsigning inventor THROWER.

With respect to prong (2) above, the USPTO has admitted that Ms. Ryan is the person with apparent knowledge of correspondence. However, the USPTO has asserted that a copy of documentary evidence showing that Inventor THROWER could not be reached after diligent effort, such as a certified mail return receipt, a cover letter of instructions, or an envelope returned, has not been provided. Moreover, although the USPTO has admitted that attempts were made to locate Inventor THROWER through Inventor YU, no evidence of any attempt to reach Inventor THROWER through Inventor LABAUDINIERE, or through any of Inventor THROWER's friends, family or other co-workers, has been provided. Thus, it is the position of the USPTO that at the present time, it cannot be reasonably concluded that Inventor THROWER

cannot be reached or found.

In response to the USPTO's assertions, Applicants respectfully submit that envelopes mailed to Inventor THROWER were not returned as undeliverable. Thus, Applicants are not in possession of returned envelopes or returned cover letters of instruction. (Please see Ms. Ryan's affidavit submitted in support of the petition filed January 24, 2002, also attached hereto as "Exhibit A"). However, in order to provide the USPTO with additional documentary evidence showing that Inventor THROWER could not be reached after diligent effort, Applicants submit herewith copies of cover letters with instructions sent to Inventor THROWER, the related United Parcel Service (UPS) shipping documents, and the related USP tracking details (documents attached hereto as "Exhibit B").

Furthermore, in response to the USPTO's assertion that efforts were not made to contact Inventor THROWER through Inventor (and co-worker) LABAUDINIERE, attached hereto are two emails sent from William Coppola on October 18, 2001 and October 29, 2001, respectively, to joint inventor LABAUDINIERE requesting information on the whereabouts of Inventor THROWER (attached hereto as "Exhibit C"). Although the USPTO stated such information could also be obtained from friends and family members of Inventor THROWER, it is not the policy of Aventis Pharmaceuticals Inc. to maintain records identifying the friends and family of inventors. Thus, such information is not available.

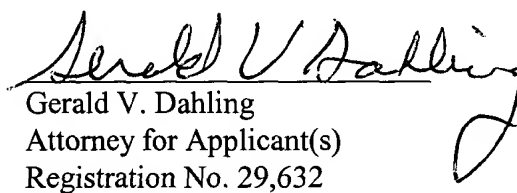
CONCLUSION

Since the USPTO has found Applicants' petition sufficient with respect to prongs (1) and (3)-(4) of the requirements for a petition under 37 CFR 1.47(a), and since the submissions filed herewith provide additional documentation that diligent efforts were made to find or reach

Inventor THRWOR and fulfill the requirements of prong (2), it is respectfully requested that Applicants' petition under 37 CFR 1.47 be reconsidered and granted in Applicants' favor.

Respectfully submitted,

AVENTIS PHARMACEUTICALS INC.


Gerald V. Dahling
Attorney for Applicant(s)
Registration No. 29,632

AVENTIS PHARMACEUTICALS INC.
Route 202-206; Mail Stop: EMC-G1
P.O. Box 6800
Bridgewater, NJ 08807
Docket No. A2996A US